IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTEENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

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PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 26974 of 1999

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Between:

S. Balusaku, S/o. Narayanappadu,

STD PT Telephone No.KTC 29716,

R/o. Barma Colony, Tekkali, Srikakulam District.

..... PETITIONER

AND

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1. The Assistant Engineer, Telecommunication, Tekkali Division, Srikakulam District.

2. The Accounts Officer District Engineer, Telecommunication, Srikakulam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, or order or direction more particularly one in the nature of Writ of Mandamus declaring the proceedings No.TR/OP/158/95/WP/6405/97/13 dated 1-5-1997 as illegal, arbitrary, unjustified, unsustainable, unconstitutional and set aside the same and consequently direct the respondents to restore the petitioner STD & PT Telephone No. KTN No.29716 of Kothapeta, Kotabommali Road, Tekkali Division.

Counsel for the Petitioner: MR.A.RAMA RAO

Counsel for Respondents: A. Rajasekhar Reddy, SC for CG

The Court made the following :

ORDER:

The petitioner is a physically (orthopedic) challenged person. He was allotted STD, PT Booth by the respondents. He opened the telephone booth on 1-4-1995 at

Tekkali. However, within a period of four months, first respondent, on 1-8-1995 disconnected the telephone connection on the allegation that the petitioner failed to pay monthly bills. The petitioner issued legal notice denying the said allegation and requested to restore telephone connection. The first respondent sent reply on 17-8-1995 stating that the petitioner has to pay arrears of Rs.6,245/- (Rupees six thousand two hundred and forty five only) and that if the arrears are paid telephone connection will be restored. Aggrieved by the same, the petitioner filed a consumer disputes case being C.D.No.158 of 1996 before the District Consumer Forum, constituted under the Consumer Protection Act, 1996. The said Forum by order dated
28-6-1996 dismissed the case holding that the petitioner is not a consumer. However, the District Consumer Forum observed that the telephone connection may be restored, if the petitioner clears all the arrears.

The Accounts Officer in the office of the Telecom District Engineer, Srikakulam issued a demand note being Demand Note No.TR/RA-3/95-96, dated 19-8-1996 informing the petitioner the net amount payable is Rs.1,333/- (Rupees one thousand three hundred and thirty three only). The petitioner paid the amount on 22-8-1996 vide Receipt No.8230. The respondents, however, did not restore telephone connection.

The petitioner filed writ petition being W.P.No.6405 of 1997 before this Court seeking a direction to the respondents to restore telephone connection to STD Booth. This Court disposed of the said writ petition giving liberty to the petitioner to make a representation and directing the respondents to consider the representation within a period of 15 days thereafter. In pursuance thereof, the District Engineer, Telecommunications, Srikakulam has issued Memo enclosing a fresh demand note being Demand Note No.TR/OP-158/95/WP/6405/97/13 dated 1-5-1997 for Rs.16,455/- (Rupees sixteen thousand four hundred and fifty five only). The petitioner was called upon to pay the amount for arranging reconnection to his STD Booth. This order was assailed in this writ petition.

Though, the writ petition was admitted on 3-12-1999 the respondents have not chosen to file any counter affidavit. None appears for the respondents.

When the telephone connection was disconnected in August, 1995 the petitioner gave a legal notice. The first respondent sent a reply to the effect that the petitioner is in arrears to the tune of Rs.6,245/- (Rupees six thousand two hundred and forty five only). Further in C.D.No.158 of 1996 before the District Consumer Forum, Srikakulam, the first respondent District Engineer, Telecommunications, Srikakulam filed a counter affidavit stating that in reply to the legal notice the first respondent informed the petitioner that an amount of Rs.7,244/- (Rupees seven thousand two hundred and forty four only) is due. Subsequently the Accounts Officer issued Demand Note on 19-8-1996 calling upon the petitioner to pay Rs.1,333/-. The petitioner duly paid the same. But the telephone connection was not restored compelling the petitioner to file writ petition being W.P.No.6405 of 1997. Even in the said writ petition though the respondents were represented by duly instructed counsel, not even a whisper was made to the effect that the petitioner is due a sum

of Rs.16,455/- (Rupees sixteen thousand four hundred and fifty five only). Indeed before this Court the contention was that the petitioner was due a sum of Rs.6,245/- (Rupees six thousand two hundred and forty five only). It only shows that there was total non-application of mind by the respondents and there is any amount of communication gap between the Office of the Telecom District Engineer on the one hand and the Assistant Engineer, Telecommunication, Tekkali on the other hand. The petitioner, who is a physically challenged person has already put to suffering due to non-application of mind by the respondents. Therefore, this Court has examined the matter having regard to the attitude of the respondents in continuously changing their stand with regard to the payment to be made by the petitioner.

Before the District Forum, the District Engineer, Telecommunications filed counter affidavit admitting that the petitioner has to pay arrears of Rs.7,244/- (Rupees seven thousand two hundred and forty four only). Indeed, this Court in the order dated 7-4-1997 in W.P.No.6405 of 1997 took note of this fact. These two circumstances would show that the amount claimed in the impugned demand note is on the high-side. Therefore, I deem it proper to direct the respondents to restore telephone connection to the petitioner immediately on the petitioner paying a sum of Rs.7,244/- (Rupees seven thousand two hundred and forty four only).

The Writ Petition, with the above observations, is accordingly allowed and the impugned letter is set aside. No costs.

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V.V.S. RAO, J.

14th October, 2004

Js

That Rule Nisi has been made absolute.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Thursday the Fourteenth day of October, Two thousand and four.

ASSISTANT REGISTRAR

To

1. The Assistant Engineer, Telecommunication, Tekkali Division, Srikakulam District.
2. The Accounts Officer District Engineer, Telecommunication, Srikakulam.

3. 2 CD copies.